

1
2 BILL NO. S-89-09-13

3 SPECIAL ORDINANCE NO. S-152-89.

4 AN ORDINANCE approving Contract FOR
5 RES. 1051-89, BELLEVUE DRIVE WATER
6 MAIN, between LAND, INC. and the City
7 of Fort Wayne, Indiana, in connection
8 with the Board of Public Works and
9 Safety.

10 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
11 THE CITY OF FORT WAYNE, INDIANA:


12 SECTION 1. That the Contract FOR RES. 1051-89,
13 BELLEVUE DRIVE WATER MAIN, by and between LAND, INC. and the
14 City of Fort Wayne, Indiana, in connection with the Board of
15 Public Works and Safety, is hereby ratified, and affirmed and
16 approved in all respects, respectfully for:

17 installation of 4400+/- L.F. of 6"
18 Class #50 Ductile Iron Water Main on
19 Bellevue Drive from Garden Park Drive
20 to Riverton;

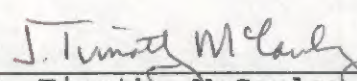
21 involving a total cost of Ninety-Two Thousand Four Hundred
22 Sixty-Five and No/100 Dollars (\$92,465.00).

23 SECTION 2. Prior Approval has been requested from
24 Common Council on August 15, 1989. Two copies of said
25 Contract are on file with the Office of the City Clerk and
26 made available for public inspection, according to law.

27 SECTION 3. That this Ordinance shall be in full force
28 and effect from and after its passage and any and all
29 necessary approval by the Mayor.

30 
Councilmember

31 APPROVED AS TO FORM
32 AND LEGALITY

33 
J. Timothy McCaulay, City Attorney

CONSTRUCTION CONTRACT

Board Order 122-87

Resolution 1051-89

Work Order 64072

THIS CONTRACT made and entered into in triplicate this 23rd day of August, 1989, by and between Land Incorporated, herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works and Safety, herein called OWNER;

WITNESSETH, that the CONTRACTOR and the OWNER, for the considerations hereinafter named, agree as follows:

ARTICLE 1: SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following:

Installation of 4400± L.F. of 6" Class #50 Ductile Iron Water Main on Bellevue Drive from Garden Park Drive to Riverton.

All according to Fort Wayne Water Utility, Drawing No.Y-10642, Sheets 1 through 5, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2: THE CONTRACT SUM

The owner shall pay CONTRACTOR for the performance of the contract, the unit price sum of \$92,465.00. In the event the amount of work is increased or decreased by OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the CONTRACTOR'S Proposal.

ARTICLE 3: PROGRESS PAYMENTS

The OWNER shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by OWNER upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the CONTRACTOR and approved or revised by the Engineering Department of the OWNER less the aggregate of previous payments, will be paid by OWNER to the CONTRACTOR.

ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the CONTRACTOR that the work is ready for final inspection and acceptance, the Board of Public Works and Safety will direct the Engineering Department of the OWNER to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works and Safety, which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted. Thereupon, the entire balance of the Contract sum shall be due and payable to the CONTRACTOR; provided only that CONTRACTOR shall first furnish OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid, and all required manpower utilization reports for this project have been submitted.

ARTICLE 5: WORKMEN'S COMPENSATION ACT

The CONTRACTOR will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.

Any judgment rendered against the City of Fort Wayne in any suits for Damages for injury to real or personal property, or for injury sustained by any person growing out of any act or doing of CONTRACTOR, or its agents, employees or workmen or any judgment of any court or award of any Board of Arbitrators or of the Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor(s) in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said CONTRACTOR, shall be conclusive against CONTRACTOR as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that CONTRACTOR indemnify and hold harmless OWNER in the premises.

ARTICLE 6: NONDISCRIMINATION OF LABOR

The CONTRACTOR further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. The successful bidder shall file a Manpower Utilization Report for this project with the Compliance Office within ten (10) days after completion of construction or upon request of the Office of Compliance.

ARTICLE 7: PREVAILING WAGE SCALE

The CONTRACTOR agrees to pay, and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the Statutes of the State of Indiana, and the Ordinances of the City of Fort Wayne according to the applicable wage scale as included in the bid documents.

ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- a. Advertisement for Bids for Resolution No. 1051-89
- b. Instructions to Bidders for Resolution No. 1051-89
- c. Contractor's Proposal dated
- d. Fort Wayne Engineering Department Drawing Y-10642
- e. Supplemental Specifications for Resolution No. 1051-89
- f. Workman's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.
- g. Non-Discrimination of Labor, General Ordinance No. G-34-78 (as amended).
- h. Prevailing Wage Scale.
- i. Performance and Guaranty Bond.
- j. Labor and Material Payment Bond.
- k. Minority/Female Employment Hourly Utilization.
- l. Right-of-Way Cut Permit.
- m. Comprehensive Liability Insurance Coverage.
- n. Form 96.

ARTICLE 9: GUARANTEE OF WORKMANSHIP

At the time of execution of this contract, the CONTRACTOR shall furnish a Performance and Guaranty Bond in favor of the City of Fort Wayne in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the work by the OWNER.

ARTICLE 10: INDEMNITY

CONTRACTOR shall furnish to OWNER, within ten (10) days of the date hereof, a certificate from an insurer acceptable to OWNER showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to OWNER and in accordance with the Statutes of the State of Indiana.

ARTICLE 11: ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this Contract shall be subject to the decision of the Director of Board of Public Works and Safety of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works and Safety.

ARTICLE 12: COMPLETION DATE

The CONTRACTOR agrees to complete the work specified in the contract within sixty (60) consecutive calendar days after having been ordered by the OWNER to commence work under this contract.

ARTICLE 13: COUNCILMANIC APPROVAL

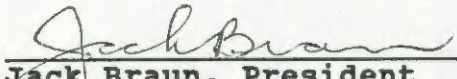
This Agreement, although executed on behalf of the OWNER by the Mayor and Board of Public Works and Safety of the City of Fort Wayne, Indiana, shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

ARTICLE 14:

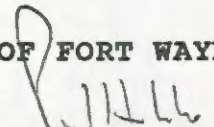
This contract is governed by Laws of the State of Indiana.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

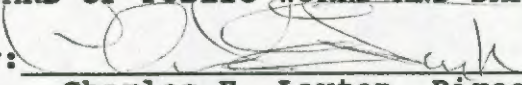
CONTRIBUTOR: Land Incorporated

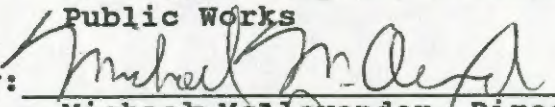
By: 
Jack Braun, President

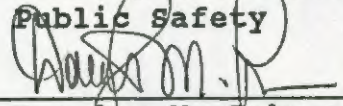
CITY OF FORT WAYNE

By: 
Paul Helmke, Mayor

BOARD OF PUBLIC WORKS AND SAFETY

By: 
Charles E. Layton, Director
Public Works

By: 
Michael McAlexander, Director
Public Safety

By: 
Douglas M. Lehman, Director
Administration and Finance

ATTEST:


Helen V. Gochenour, Clerk

ACKNOWLEDGEMENT

STATE OF INDIANA)

SS:

COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 16th day of August, 1989, personally appeared the within named **Jack Braun** who being by me first duly sworn upon his oath says that he is the **President of Land Incorporated**, and as such duly authorized to execute the foregoing instrument and acknowledged the same as the voluntary act and deed of **Land Incorporated**, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Joy Braun
Notary Public

Joy BRAUN
Printed Name of Notary

My Commission Expires:

April 28, 1990

Resident of NOBLE County.

ACKNOWLEDGEMENT

STATE OF INDIANA)

SS:

COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 23rd day of August, 1989, personally appeared the within named Paul Helmke, Charles E. Layton, Michael McAlexander, Douglas M. Lehman, and Helen V. Gochenour, by me personally known, who being by me duly of sworn said that they are respectively the Mayor of the City of Fort Wayne, and Director, Members, and Clerk of the Board of Public Works and Safety of the City of Fort Wayne, Indiana, and that they signed said instrument on behalf of the City of Fort Wayne, Indiana, with full authority so to do and acknowledge said instrument to be in the voluntary act and deed of said City for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Carolyn S. Eschmann
Notary Public

Carolyn S. Eschmann
Printed Name of Notary

My Commission Expires: 6-16-91

Resident of Allen County.

Approved by the Common Council of the City of Fort Wayne on _____ day of _____, 1989.

Special Ordinance No. _____.

RELIANCE INSURANCE COMPANY

HEAD OFFICE. PHILADELPHIA. PENNSYLVANIA

PERFORMANCE BOND

The American Institute of Architects, AIA Document A311, February 1970 Edition.

KNOW ALL MEN BY THESE PRESENTS: that (Here insert full name and address or legal title of Contractor)

LAND, INC.

P.O. Box 192

LaOtto, IN 46763

as Principal, hereinafter called Contractor, and, **RELIANCE INSURANCE COMPANY**, a corporation of the State of Pennsylvania, with its Head Office at Philadelphia, Pennsylvania, as Surety, hereinafter called Surety, are held and firmly bound unto (Here insert full name and address or legal title of Owner)

CITY OF FORT WAYNE

BOARD OF PUBLIC WORKS AND SAFETY

City-County Building

Fort Wayne, IN 46802

as Obligee, hereinafter called Owner, in the amount of NINETY-TWO THOUSAND, FOUR HUNDRED SIXTY-

FIVE & NO/100 Dollars (\$ 92,465.00), for the payment whereof Contractor

and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated AUGUST 14, 19 89, entered into a contract with Owner for BELLEVUE DRIVE WATER MAIN IMPROVEMENTS - RESOLUTION 1051-89 . . .

in accordance with Drawings and Specifications prepared by (Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this FOURTEENTH

day of AUGUST

19 89

LAND, INC.

(Principal)

(Seal)

By:

PRESIDENT

(Title)

RELIANCE INSURANCE COMPANY

By:

Fred L. Tagtmeyer

Attorney-in-Fact

RELIANCE INSURANCE COMPANY

HEAD OFFICE, PHILADELPHIA, PENNSYLVANIA

LABOR AND MATERIAL PAYMENT BOND

The American Institute of Architects, AIA Document A311, February 1970 Edition.

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

KNOW ALL MEN BY THESE PRESENTS: that (Here insert full name and address or legal title of Contractor)

. LAND, INC.
P.O. Box 192
LaOtto, IN 46763

as Principal, hereinafter called Principal, and, **RELIANCE INSURANCE COMPANY**, a corporation of the State of Pennsylvania, with its Head Office at Philadelphia, Pennsylvania, as Surety, hereinafter called Surety, are held and firmly bound unto (Here insert full name and address or legal title of Owner) CITY OF FORT WAYNE

BOARD OF PUBLIC WORKS AND SAFETY

City-County Building, Fort Wayne, IN 46802

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of NINETY-TWO

THOUSAND, FOUR HUNDRED SIXTY-FIVE & NO/100 Dollars (\$ 92,465.00),

for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated AUGUST 14, 19 89, entered into a contract with Owner for BELLEVUE DRIVE WATER MAIN IMPROVEMENTS - RESOLUTION 1051-89

in accordance with Drawings and Specifications prepared by (Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

Read the first time in full and on motion by Henry, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee on City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 9-12-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by GiaQuinta, and duly adopted, placed on its passage. PASSED ~~lost~~ by the following vote:

| | AYES | NAYS | ABSTAINED | ABSENT |
|-------------|----------|------|-----------|----------|
| TOTAL VOTES | <u>7</u> | | | <u>2</u> |
| BRADBURY | <u>✓</u> | | | |
| BURNS | <u>✓</u> | | | |
| EDMONDS | | | | |
| GiaQUINTA | <u>✓</u> | | | <u>✓</u> |
| HENRY | <u>✓</u> | | | |
| LONG | | | | <u>✓</u> |
| REDD | <u>✓</u> | | | |
| SCHMIDT | <u>✓</u> | | | |
| TALARICO | <u>✓</u> | | | |

DATED: 9-26-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____ (ZONING MAP) _____ ORDINANCE RESOLUTION NO. 152-89 on the 26th day of September, 1989.

ATTEST
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of September, 1989 at the hour of 11:30 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 2nd day of October, 1989, at the hour of 1:15 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

TITLE OF ORDINANCE Contract for Res. 1051-89, Bellevue Drive Water MainDEPARTMENT REQUESTING ORDINANCE Board of Public WorksSYNOPSIS OF ORDINANCE The Contract for Res. 1051-89, Bellevue Drive Water
Main is for the following: Installation of 4400+ L.F. of 6" Class #50Ductile Iron Water Main on Bellevue Drive from Garden Park Drive to
Riverton. Land, Inc., is the ContractorPRIOR APPROVAL RECEIVED ON 8/15/89J-89-09-13EFFECT OF PASSAGE Improved water conditions at above location

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$92,465.00

ASSIGNED TO COMMITTEE _____

BILL NO. S-89-09-13

REPORT OF THE COMMITTEE ON CITY UTILITIES

THOMAS C. HENRY, CHAIRMAN
MARK E. GIAQUINTA, VICE CHAIRMAN
LONG, BURNS, TALARICO

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) ~~XXXXXXXXXX~~ (RESOLUTION) approving Contract FOR
RES. 1051-89, BELLEVUE DRIVE WATER MAIN between LAND, INC.
and the City of Fort Wayne, Indiana, in connection with the Board
of Public Works and Safety

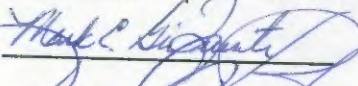

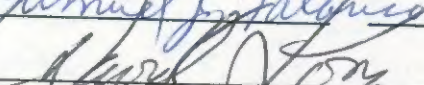
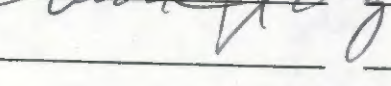
HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (RESOLUTION)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

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DATED: 9-26-89

Sandra E. Kennedy
City Clerk